



**Comments on the
Proposed Rulemaking of the
US Public Health Security and Bioterrorism
Preparedness and Response Act of 2002
[Food Bio-terrorism Bill]**

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The Food Processors of Canada (FPC) is pleased to have the opportunity to provide the following comments to the United States Food and Drug Administration (FDA) for consideration as they develop the regulations required for the implementation of the Public Health Security and Bioterrorism Preparedness and Response Act of 2002 (the Bioterrorism Act). The FPC is a internationally respected business association serving food industry executives on matters concerning trade, commerce and manufacturing. The members of FPC own or manage Canadian food processing companies who add value to inputs sourced from around the world and service markets in 80 countries including the United States and therefore affected by the final rules implemented by the FDA.

Docket No. 02N-0278 Section 307 (Prior Notice)

Submission of Notice: Recommend that responsibility for submitting prior notice be extended to the exporter in addition to the U.S. purchaser, U.S. importer or a U.S. agent for the following reasons:

- ~~/~~ Exporters usually have control of their shipments to their customers since they negotiate delivery terms with their transporters.
- ~~/~~ Exporters complete all necessary export forms so it would be reasonable they would submit prior notice.
- ~~/~~ Although US purchasers and customers initiate importation, they do not necessarily have the resources nor want to manage the delivery status of all product arriving at their establishments.
- ~~/~~ If exporters have to submit prior notices to a U.S. Agent, this will further delay the prior notice since exporter will have to send the notice to their agent (customs broker for example), who will then have to submit prior notice to the FDA by noon the previous day. This will not only delay the information flow but create added costs for exporter since the importer/purchaser/agent will have to submit on their behalf.

Notice by Noon: Recommend that land and cargo (train or truck) notification is a minimum notice of two hours prior to entry for the following reasons:

- ~~/~~ Not always known what will be shipped that far ahead of time
- ~~/~~ Most notices will have to be amended the day of shipping once exact contents are identified on the truck
- ~~/~~ Customs entry numbers are not supplied until the truck hits the border
- ~~/~~ Not always clear at what port the shipment will clear
- ~~/~~ Work load created by this will not be measurable until the system is in place
- ~~/~~ Will the FDA system be able to properly work without crashing

~~✍~~ Unable to fulfill “rush orders”

~~✍~~ No immediate contact with driver in case of break down, bad weather or other issues as of changes needed to entry

Port of Entry: Allow flexibility to accommodate unforeseen circumstances that may require a change in the port of entry or timing. A change should not necessarily result in detention or in re-notification that would initiate a new minimum time period

Less than Load (LTL) Shipments: FDA needs to consider how to accommodate LTL shipments where several notices arriving at FDA at different times may relate to a single shipment arriving at a port of entry.